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C O N F I D E N T I A L SECTION 01 OF 02 BOGOTA 004534

SIPDIS

E.O. 12958: DECL: 05/13/2015

TAGS: ASEC PTER MOPS PREL CO

SUBJECT: U.S. SOLDIERS DETAINED IN MELGAR

Classified By: Ambassador William B. Wood for reasons

1.5 (b) and (d)

Summary

¶11. (SBU) This is a summary account of events related to the discovery of U.S. manufacture munitions in a private apartment in Carmen de Apicala, Tolima Department. Although Post has attempted to make this cable accurate, there are still many facts surrounding this incident not yet known. Therefore, addressees should regard this as a preliminary summary of the facts as we understand them on this date. On Tuesday May 3, 2005, U.S. soldiers Sergeant Jesus Hernandez and Warrant Officer Allan Tanquary were detained by Colombian National Police (CNP) in Melgar, Tolima Department for their alleged involvement in an ammunition sale, possibly to illegal armed groups. The soldiers are members of the U.S. Army's 7th Special Forces Group and were serving as staff members of a Special Forces company conducting training at the Colombian Army's National Training Center in Tolemaida, a few kilometers away. The soldiers were released into U.S. custody on May 5, and they departed Bogota on May 6. End Summary.

The Detention

¶12. (SBU) On May 3, the CNP apprehended a Colombian on the Melgar-Carmen de Apicala road; the man received a cell phone call during the arrest that prompted the CNP to investigate a condominium at El Paraiso, a housing complex down the road. The CNP arrived at the indicated house, where they found the two U.S. soldiers. Warrant Officer Tanquary used his key to give the police entry to the house. Another Colombian was in the house, along with 32,900 rounds of various caliber ammunition. The detainees were taken to the CNP station in Melgar, where they spent the night. It is our understanding that the ammunition has been positively traced to the 7th Special Forces Group at Melgar.

U.S. Response

¶13. (SBU) MILGRP dispatched two staff assigned to Bogota to liaise with the CNP and assume custody of the soldiers. The 7th Special Forces Group also sent personnel to assist in the effort and attend to the soldiers. However, the Fiscalia asserted jurisdiction from the CNP and prevented the soldiers' release. On the afternoon of Wednesday May 4, 2005, the DCM with JUDATT and MILGRP EXO met with Ministry of Foreign Affairs Vice Minister Giron. Giron agreed that under the existing bilateral agreements and the Vienna Convention the soldiers were entitled to immunity from Colombian criminal jurisdiction. But he asked to work informally with the Embassy to resolve the matter.

¶14. (SBU) The DCM, MILGRP EXO, and JUDATT met with the acting Fiscal-General, Luis Santana to seek the release of the U.S. soldiers. The DCM explained that the soldiers were entitled to immunity from criminal prosecution. Santana agreed, but sought commitments from the Embassy to ensure prosecution of the soldiers. Santana sought to have the Embassy sign an official document with the Colombian government prior to the release of the soldiers. The DCM explained that (1) the Fiscalia had an absolute obligation to comply with its agreements and release the soldiers; and (2) the DCM had no/no authority to negotiate or sign any document, although he explained that he was willing to confer with Washington the next day after the release of the U.S. soldiers to see what assurances on investigation/prosecution could be made, if any.

¶15. (SBU) Discussions continued at length with the Vice Fiscal agreeing that Colombia had a legal obligation to release the soldiers, but refusing to give an order to do so. By now the soldiers had been transported to Ibagué, Tolima Department, but strong remonstration by the DCM and JUDATT convinced the Vice Fiscal to block their interrogation. After further discussion, an exchange of faxes between the Fiscalia and the Foreign Ministry certifying the eligibility of the soldiers for immunity and a strong telephone protest of Ambassador Wood, the Vice Fiscal finally agreed to release the soldiers

at about 19:00 hours local time. At this point, however, Embassy decided the Ibague-Melgar road was too dangerous to travel and the actual release would have to wait until the next morning, May 5, 2005.

The Transfer

16. (SBU) At 08:00 hours on Thursday May 5, the U.S. soldiers were released into U.S. custody at Ibague. They traveled to Melgar and then to Bogota. They arrived at the Embassy in Bogota at about 16:00 hours, at which point they were interviewed by the Naval Criminal Investigation Service (NCIS) and FBI special agents; the soldiers opted to remain silent during the interviews. The Embassy also provided an opportunity for a representative from the Ibague attorney general's office to conduct an interview, and again both soldiers declined to talk. They spent the night on Embassy grounds and left Bogota for the US via American Airlines flight number 916 at 13:35 hours on 6 May 2005.

Further Developments

17. (C) On May 6, a Sergeant Major of 7th Special Forces Group informed Embassy officials of a second house in Melgar that had been frequented by Sergeant Hernandez. Seventh Special Forces Group Sergeant Major Brian William Bernard provided the CNP with a key to the house and together they entered the house. The CNP and U.S. officials searched the house that evening and discovered an additional 10,000 rounds of ammunition, along with approximately \$5700 USD and 2 million Colombian pesos of operational fund money that allegedly belonged to the 7th Special Forces Group. Members of the Special Forces Group in Tolemaida have been interviewed for further information regarding the incident by FBI/Bogota and the NCIS.

18. (SBU) AT this point many questions remain. For example, the Embassy does not/not yet know what the ultimate destination of either lot of the ammunition was to have been. The relationship of Warrant Officer Tanquary and Sergeant Hernandez to the others involved in this case is unknown to the Embassy at this time.

19. (SBU) Many of the facts above should be regarded as preliminary information, but it is the best available to the Embassy at this time.

110. (U) The arrests have generated an intense level of interest among the Colombian media. News stories have been fairly balanced (with periodic lapses in fact-checking), but editorials have taken a markedly more negative tone. Many pieces, including the lead editorial in the top national daily El Tiempo on May 6, noted that the soldiers' arrest is the latest in a string of illegal activities on the part of U.S. servicemen in Colombia (in March five U.S. servicemen were arrested after 35 lbs. of cocaine was discovered on a military aircraft headed for the U.S.). Because many Colombians, including well-educated Colombians, doubt the U.S. intention to investigate and prosecute these crimes, many opinion pieces also called into question the agreements between Colombia and the U.S. allowing for the immunity of U.S. personnel from criminal charges before the Colombian Justice system.

WOOD